In the High Court of Punjab and Haryana at Chandigarh

C.W.P. No. 904 of 2007

Date of Decision: 27.2.2007

M/s Maya Enterprises, Chandigarh

…Petitioner

Versus

Joint Director, Directorate of Revenue Intelligence, Ludhiana and another

…Respondents

CORAM: HON'BLE MR. JUSTICE M.M. KUMAR

HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr. Jagmohan Bansal, Advocate,
for the petitioner.

Mr. Sanjeev Kaushik, Advocate,
For the respondents.

M.M. KUMAR, J. (Oral),

The prayer made by the petitioner in this petition filed under Article 226 of the Constitution is for issuance of direction to the respondents to clear their goods lying at CFS, Ludhiana. According to the averments made in the petition, the petitioner has imported goods in November, 2006 and filed its bills of entry. However, the proper officer did not permit clearance of goods. Thereafter, the petitioner was summoned to appear before the proper

officer. Accordingly, he appeared on 8.12.2006. The petitioner was informed that the matter has been referred to the competent authority on 22/28.12.2006. However, the goods were not released resulting into filing of this petition.

At the hearing today, learned counsel for the revenue has placed reliance on the provisional order of assessment, dated 27.12.2006, passed by the competent authority concluding that the petitioner was required to deposit duty calculated at the rate of US $420 per metric tonne if the goods are found as Palm Fatty Acid Distillate on testing, although declared as Mixed Acid Oil in the bills of entry or Mixed Fatty Acid. In respect of goods declared as Mixed Acid Oil, the duty was to be calculated at the rate of US $340 per metric tonne.

It appears to us that the dispute in this case centers around as to whether goods, which is dealt with by Entry 15119090 of the notification, dated 15.9.2006, issued by the respondents under Section 14(2) of the Customs Act, 1962 (R-1/2), could be considered as edible or non-edible oil. However, without going into the merit of the controversy at this stage we deem it just and appropriate to direct the respondents to accept the duty from the petitioner at the flat rate of US $ 300 per metric tonne on provisional basis subject to final assessment and accept personal PD Bond for the rest of the amount. We further direct that the goods shall be released within three days of compliance of all the formalities in accordance with law. We have adopted the aforementioned course for the reason that according to the test report, which has been received, the goods have been found to be non-edible whereas earlier the same were classified as edible.

Learned counsel for the petitioner has also stated that it would seek the remedy of filing of appeal against the assessment order. We accept the prayer and permit the petitioner to file an appeal against the order of provisional assessment, in accordance with law.

A copy of the order be given dasti on payment of usual charges.

(M.M. KUMAR)
JUDGE

(RAJESH BINDAL)
JUDGE

February 27, 2007

Pkapoor